

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

AMERICAN FIRE AND CASUALTY
COMPANY,

Plaintiff(s),

v.

UNFORGETTABLE COATINGS INC., et
al.,

Defendant(s).

Case No. 2:21-cv-01555-JCM-NJK

Order

[Docket No. 18]

Pending before the Court is Plaintiff and Counter-Defendant's motion to stay discovery pending resolution of its motion for judgment on the pleadings. Docket No. 18.¹ Defendants filed a response. Docket No. 21. Plaintiff filed a reply. Docket No. 22. The motion is properly resolved without a hearing. *See* Local Rule 78-1.

The Court has broad discretionary power to control discovery. *See, e.g., Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988). "The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of discovery when a potentially dispositive motion is pending." *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011). Discovery should proceed absent a "strong showing" to the contrary. *Turner Broadcasting Sys., Inc. v. Tracinda Corp.*, 175 F.R.D. 554, 556 (D. Nev. 1997). The case law in this District makes clear that requests to stay discovery may be granted when: (1) the underlying motion is potentially dispositive in scope and effect; (2) the underlying motion can be decided without additional discovery; and (3) the Court has taken a "preliminary peek" at the merits of the underlying motion and is convinced that the

¹ *See also* Docket No. 17 (motion for judgment on the pleadings); Docket No. 23 (response thereto); Docket No. 24 (reply).

1 plaintiff will be unable to prevail. *Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 581 (D. Nev.
2 2013). The Court is guided in its analysis by the objectives in Rule 1 to secure a just, speedy, and
3 inexpensive determination of cases. *Tradebay*, 278 F.R.D. at 602.

4 A stay of discovery is appropriate here. First, the underlying motion is potentially
5 dispositive as it seeks judgment on Plaintiff's claim and the counterclaim. *See* Docket No. 17 at
6 19. Second, the underlying motion involves legal issues for which discovery is not likely to be
7 needed. Third, the undersigned's evaluation of the motion for judgment on the pleadings reveals
8 that it is sufficiently meritorious to justify a stay of discovery.²

9 Accordingly, the motion to stay discovery is **GRANTED**. In the event resolution of the
10 motion for judgment on the pleadings does not result in the termination of this case, a discovery
11 plan or joint status report must be filed within 14 days of the issuance of such order.

12 IT IS SO ORDERED.

13 Dated: February 1, 2022

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16 Nancy J. Koppe
17 United States Magistrate Judge
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26 ² Conducting the preliminary peek puts the undersigned in an awkward position because
27 the assigned district judge who will decide the underlying motion may have a different view of its
28 merits. *See Tradebay*, 278 F.R.D. at 603. This "preliminary peek" at the merits of the underlying
motion is not intended to prejudice its outcome. *See id.* As a result, the undersigned will not
provide a lengthy discussion of the merits of the underlying motion. Nonetheless, the undersigned
has carefully reviewed the arguments presented in the underlying motion and subsequent briefing.